

I649petc

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 IN RE: PETROBRAS,

4  
5 14 CV 9662 (JSR)

6 -----x

7 New York, N.Y.  
8 June 4, 2018  
9 2:09 p.m.

10 Before:

11 HON. JED S. RAKOFF

12 District Judge

13 APPEARANCES

14 POMERANTZ

15 Attorneys for Class Plaintiffs

16 BY: JEREMY LIEBERMAN

17 MARC I. GROSS

18 BRENDA SZYDLO

19 EMMA GILMORE

20 JENNIFER PAFITI

21 JOHN A. KEHOE

22 USS INVESTMENT MANAGEMENT LIMITED

23 BY: JEREMY HILL

24 Group General Counsel

25 LABATON SUCHAROW

Attorneys for Plaintiff Hawaii

BY: THOMAS A. DUBBS

LOUIS GOTTLIEB

STATE OF NORTH CAROLINA

DEPARTMENT OF STATE TREASURER

BY: MERYL MURTAGH

Corporate Governance Attorney

I649petc

APPEARANCES CONTINUED

CLEARY GOTTlieb STEEN & HAMILTON

Attorneys for Defendant Petrobras

BY: ROGER A. COOPER

LEWIS J. LINMAN

SKADDEN, ARPS, SLATE, MEAGHER & FLOM

Attorneys for Underwriters

BY: JAY B. KASNER

SCOTT D. MUSOFF

KING & SPALDING

Attorneys for Defendant PricewaterhouseCoopers Brazil

BY: MICHAEL R. PAUZÉ

JAMES J. CAPRA, JR.

I649petc

(Case called)

MR. LIEBERMAN: Good afternoon, your Honor.

Jeremy Lieberman from Pomerantz for class plaintiffs.

With me is Jeffrey Hill from USS.

THE COURT: Good afternoon.

MR. DUBBS: Good afternoon, your Honor. Thomas Dubbs  
for Hawaii.

MS. GILMORE: Good afternoon. Emma Gilmore from  
Pomerantz.

MS. MURTAGH: Meryl Murtagh with the North Carolina  
State Treasurer for the plaintiffs.

MS. SZYDLO: Brenda Szydlo, Pomerantz, plaintiffs.

MR. GROSS: Marc Gross, Pomerantz, for the lead  
plaintiffs.

MR. COOPER: Good afternoon, your Honor.

Roger Cooper from Cleary Gottlieb on behalf of  
Petrobras defendants.

MR. LINMAN: Good afternoon. Lewis Linman from Cleary  
Gottlieb on behalf of Petrobras defendants.

MR. KASNER: Good afternoon, your Honor. Jay Kasner  
from Skadden Arps on behalf of the underwriters.

And before my colleague introduces himself, which I  
would dare not do, we have a number of summer students that are  
spending the summer with us that are in the courtroom as well.

THE COURT: Wait a minute. You have let summer

I649petc

1 students leave your premises?

2 MR. KASNER: Your Honor, I took your cue, having  
3 brought your class down to the last hearing.

4 THE COURT: Fair enough.

5 MR. MUSOFF: Good afternoon, your Honor.

6 Scott Musoff from Skadden Arps for the underwriter  
7 defendants.

8 MR. PAUZÉ: Good afternoon, your Honor.

9 Michael Pauzé and Jim Capra from King & Spalding on  
10 behalf of PricewaterhouseCoopers Brazil.

11 THE COURT: Who, in addition to counsel for the  
12 parties, is there anyone here for any of the objectors?

13 MS. ST. JOHN: Good afternoon, your Honor.

14 Anne St. John with the Competitive Enterprise  
15 Institute on behalf of objector William Thomas Haynes as  
16 Trustee of the W. Thomas and Katherine Haynes irrevocable trust  
17 for the been of Sara Haynes.

18 THE COURT: Good to have you here. Anyone else?

19 MR. MARTINEZ: Jul Martinez.

20 I'm one of the objectors, me and my wife, Sandra  
21 Bennun.

22 THE COURT: Anyone else? From the objectors?

23 All right. So I should mention I have a jury that is  
24 deliberating as we speak. So if they have notes at any time  
25 we'll have to interrupt and you'll have to clear the counsel

I649petc

1 table for those occasions. But at least for now they're quiet.

2 So I have a number of questions and then we'll hear  
3 from anyone who wants to be heard independent of my questions.

4 Of the objections that were raised, I thought the one  
5 that at least gave me some pause was that even though the class  
6 that I had certified for trial purposes did not include what  
7 I'll call nondomestic parties or nondomestic claimants. The  
8 settlement did include those. Many of them may have been, in  
9 fact, domestic, but these were shareholders whose transactions  
10 were settled by Depository Trust Company and the question then  
11 becomes whether they should have been separately represented in  
12 the settlement discussions.

13 So the first thing I need to know from plaintiffs'  
14 counsel, because I didn't go back and check, are all the  
15 individual plaintiffs, what I'm calling domestic in the sense  
16 that they were covered by the original class certification  
17 ordered by the Court.

18 MR. LIEBERMAN: Your Honor, good afternoon. Thank  
19 you. The class plaintiffs Hawaii, North Carolina, their  
20 purchases are all domestic and were all deemed to be domestic.  
21 USS did have bond transactions that were dismissed by -- with  
22 respect to your Court's decision.

23 THE COURT: Did it have others that were not?

24 MR. LIEBERMAN: Well, sure.

25 THE COURT: So, in terms of the settlement they could

I649petc

1 wear both hats, assuming that was permissible?

2 MR. LIEBERMAN: Absolutely.

3 And I would raise the issue is -- those who have been  
4 dismissed, if they should be represented separately that  
5 raises -- they were treated -- those who were dismissed were  
6 treated equally as those who were not dismissed. So it's a  
7 fair deal for those foreign purchasers. The question is: Is  
8 it a fair deal for those who purchased in the United States?

9 THE COURT: That's the objection. The objection came  
10 from a domestic purchaser.

11 MR. LIEBERMAN: Yes.

12 THE COURT: Making the claim that it's possible that  
13 if they had been separately represented, the representatives of  
14 the domestic purchasers would have demanded more and would have  
15 demanded -- and would have argued that the nondomestic  
16 purchasers weren't entitled to anything or to very little since  
17 their claims have been dismissed.

18 So, I can understand from the defense standpoint why  
19 they would be delighted to have a global settlement. But the  
20 question is whether the return for the domestic purchasers was  
21 diminished by the fact that the settlement also includes  
22 nondomestic purchasers.

23 MR. LIEBERMAN: Your Honor, there is no evidence that  
24 there was any material effect. What we've submitted to the  
25 Court is of the noteholders from what we see, about 70 percent

I649petc

1 were those located in the United States. If you take those  
2 70 percent, using statistical analyses, you would have about  
3 91 percent of the noteholders would be those that qualify as --  
4 in the domestic transaction, either you're purchasing from or  
5 you are a domestic transaction.

6 So 91 percent of the noteholders, comparing that to  
7 the overall class, you're talking about, that's about two  
8 percent then of the entire class as a whole.

9 So then there is a possibility that two percent is  
10 getting a better deal than they should. That's what the  
11 argument would be.

12 They certainly have to get something. Because they  
13 didn't have dismissed claims. It was subject to appeal. We  
14 think it was a credible appeal to that and potentially credible  
15 motion for reconsideration.

16 But what we analyze is based on that two percent did  
17 it make sense -- that forces us then, if we're going to start  
18 to change the plan of allocation, we have to then plunge into  
19 the merits of every single one of those note transactions and  
20 determine whether or not they've met the domesticity test.

21 Your Honor, as defendants made a very good show of  
22 this through the year-and-a-half appeal that we were wrong,  
23 that could be a complicated question, and that raises  
24 complicated questions. The question would be: Where did you  
25 make your transaction? Where were you located?

I649petc

1 THE COURT: What you are saying, if I understand it,  
2 is that the kind of analysis that you did was from the  
3 standpoint of that it was still in the, to the benefit of the  
4 domestic purchasers to enter into this deal notwithstanding  
5 that included this two percent.

6 MR. LIEBERMAN: That's correct, your Honor.

7 THE COURT: Because both logistically and in other  
8 ways it would have been prohibitive to proceed otherwise; and  
9 that if you excluded them altogether, you ran the risk of not  
10 getting a settlement. But I'm a little unsure about whether  
11 I'm right about the latter part of that.

12 MR. LIEBERMAN: It's not just a matter of getting the  
13 settlement. It's about how complicated would the claims  
14 administration process be.

15 THE COURT: I understand that point.

16 My point is: Did you propose to defense counsel:  
17 Well, we'll just settle for the -- everyone but that two  
18 percent?

19 MR. LIEBERMAN: Your Honor, that was not a -- that was  
20 not part of the negotiation. It was agreed upon that this was  
21 an appropriate way to proceed. We felt it was appropriate --  
22 we were representing those claimants throughout the case. And  
23 they did have a right to appeal. So the question is then:  
24 Will you have to cordon off a class, those whose claims would  
25 have been dismissed and would not have met the Morrison



I649petc

1 standard under irrevocable liability but may under this DTC  
2 test meet it, and that's really the question that's before the  
3 Court.

4 They did have a claim. Those claims did warrant them  
5 compensation. And so then the question is: Was it appropriate  
6 to make the plan of allocation uniform as to those claimants  
7 and was it appropriate for us to represent those shareholders?  
8 We think the answer is absolutely yes in both instances.

9 THE COURT: So, the Second Circuit has a case that I  
10 think might be of relevance, In Re: Literary Works, 654 F.3d  
11 242, a 2011 Second Circuit decision, that the objectors  
12 actually didn't refer to but you referred to it obliquely and  
13 said you with distinguish it but I don't think I remember you  
14 actually doing that.

15 So why doesn't In Re: Literary Works apply?

16 MR. LIEBERMAN: Your Honor, In Re: Literary Works the  
17 situation is vastly different. There, there were three  
18 categories of claimants and settlements: Those who timely  
19 filed their work with the copyright office, those who had done  
20 so not timely, and those who had not filed their work with the  
21 copyright office. So those are the three claimants. And all  
22 of them got a separate distribution. And the issue was on  
23 category C. There was a category C reduction. Category C in  
24 that case accounted for 99 percent of the claimants in that  
25 action. And, yet, they were getting the largest reduction.

I649petc

1 And even worse, not only did they get the largest reduction  
2 because, well, they hadn't filed their copyright yet so,  
3 therefore, their claim was less viable; but if the claims in  
4 that case had reached a certain level, they would be even  
5 further diluted; potentially they would get nothing. And so  
6 you had that scenario. 99 percent of the class was in this  
7 category C. They were clearly getting a reduction. And not  
8 only that, the plan of allocation would have given them even a  
9 further reduction.

10 That's much different than what we have. We have two  
11 percent potentially of the class, we don't know, potentially  
12 two percent of the class not getting any reduction and the  
13 question then is -- there is no question of fairness to those  
14 who have been dismissed. The question is: Is it fair to it's  
15 rest of the class?

16 THE COURT: No. That's the objection that's being  
17 raised.

18 MR. LIEBERMAN: We determined, after talking to the  
19 claims administrator, that automatically if we would limit the  
20 class to those who met this Court's irrevocable -- would meet  
21 this Court's irrevocable liability test under Absolute Activist  
22 that would necessarily be a very costly and time-intensive  
23 exercise. The claims distribution process could be upheld for  
24 months. Because there could be litigation on that very point.  
25 Do all these factors meet Absolute Activist test? I hate to --

I649petc

1 I know this Court is well aware. Absolute Activist can be  
2 applied in many different ways, and there is no clarity as to  
3 how it's applied. Whether or not if you -- if your broker  
4 dealer, if he makes a transaction, is that sufficient? Is it  
5 sufficient if you make your transaction outside of the United  
6 States? Is it sufficient if you purchase your shares through  
7 bank accounts in the United States?

8 THE COURT: So the -- forgive me for interrupting you  
9 but I just want to make sure I understand a point you alluded  
10 to a few minutes ago.

11 Your client, your individual client, USS, has both  
12 claimants or its shares fit into both categories, both the  
13 domestic and what we're calling the nondomestic categories,  
14 yes?

15 MR. LIEBERMAN: That's correct, your Honor.

16 THE COURT: The other individual plaintiffs are only  
17 domestic.

18 MR. LIEBERMAN: That's my understanding, your Honor,  
19 yes.

20 THE COURT: So if there were anything to this  
21 objection, they presumably would have objected to the  
22 settlement that you were prepared to sign onto because they  
23 only represented purely domestic people and they did not  
24 object, correct?

25 MR. LIEBERMAN: That is correct, your Honor.

I649petc

1           And it is important to note that both North Carolina  
2           and Hawaii were very active with respect to the Section 11  
3           claims as to whether or not there should be a premium and what  
4           level of premium they were. Ultimately we came to an  
5           agreement. But they had pushed back. They demanded a certain  
6           premium. And the premium we proposed was insufficient. And we  
7           ultimately came to a premium that was sufficient.

8           If they felt that they were being unfairly diluted,  
9           they would have come and they would have complained. We had  
10          all felt that this was really a practical matter as to whether  
11          or not we're going to hold up the settlement and potentially  
12          have the claims administration subject to countless appeals  
13          because Absolute Activist is no way clear as to its  
14          application, and whether or not that was better for the class,  
15          who had no questions to domesticity, or do we make a more  
16          smooth and efficient process whereby all claims could go  
17          quickly and smoothly with an easy test to pass here.

18          THE COURT: All right. Let me hear from anyone on the  
19          defense side who wants to be heard on this.

20          MR. COOPER: Your Honor, Roger Cooper again on behalf  
21          of Petrobras.

22          I just wanted to add. You're right, your Honor,  
23          defendants were looking for global peace. And had we not been  
24          able to achieve a settlement of global peace, the settlement  
25          amount would have been substantially less. And had we not had

I649petc

1 a clear understanding who was going to be within the class, we  
2 would have had the problems that Mr. Lieberman described, not  
3 really knowing what kind of peace we were getting, because we  
4 wouldn't know whose claims were getting a settlement and who  
5 wouldn't for the reasons that Mr. Lieberman described.

6 THE COURT: Of the two objectors who are here, the  
7 only one of those two who raised this objection was the Haynes  
8 objection. So if counsel wants to be heard on this, I'll hear  
9 her.

10 MS. ST. JOHN: Thank you, your Honor.

11 A couple points. First, the fact that 70 percent of  
12 the class was US-based institutional investors doesn't tell us  
13 anything about the number of domestic transactions. Under  
14 Absolute Activist the residency or location of an investor is  
15 not a relevant factor to determining where irrevocable  
16 liability occurred. So I think we're getting ahead of  
17 ourselves to say that only two percent of the transactions that  
18 were included within the class were foreign. I think the  
19 evidence is that it may have been much higher than that. We  
20 had half of the named plaintiffs' claims based on those  
21 transactions dismissed. That alone tells us the percentage is  
22 likely higher. Even if you are looking at only two percent,  
23 two percent of a settlement this size is still significant.  
24 That's \$60 million, up to \$60 million at issue. If you're  
25 looking at 30 percent, 9 percent, 2 percent, that's a lot. The

I649petc

1 70 percent figure only relates to a single quarter in 2014.  
2 There are over 20 other quarters in this class period for which  
3 we don't have information. So it's a very narrow and  
4 self-interested figure that's being put before the Court as far  
5 as that goes.

6 Second, there's still needs to be separate counsel  
7 representing the groups with different interests. Yes, there  
8 may have been a class representative who only had domestic  
9 transactions at issue in the case. But under Literary Works  
10 it's the representation of unconflicted counsel that is also  
11 necessary.

12 Administrative feasibility is not a good reason.

13 THE COURT: Wait a minute. I don't quite understand.  
14 Your clients fit in the domestic category.

15 MS. ST. JOHN: Yes, your Honor.

16 THE COURT: So they have no reason to complain about  
17 the other category being represented or unrepresented,  
18 whatever. So, in your category, namely the category -- among  
19 the individual plaintiffs there were two individual plaintiffs  
20 represented by separate counsel who only represented the same  
21 category as your clients. There was a third that represented  
22 both. So why is that -- what is the basis on which you have a  
23 basis to complain?

24 MS. ST. JOHN: My understanding is that class counsel  
25 who negotiated the settlement was still representing both

I649petc

1 domestic purchasers and foreign purchasers. There was not  
2 separate counsel dedicated to advocating the interests  
3 exclusively of domestic purchasers and separate counsel  
4 exclusively representing the interests of foreign purchasers.  
5 And what we ended up with shows that lack of aligned interests.  
6 We have a settlement where foreign purchasers are recovering at  
7 the same amount as domestic purchasers despite having no claim  
8 in this case. Under Literary Works that's the reading. Even  
9 though the allocational amounts under the settlement were  
10 divided up purportedly by the strength of the claims, the  
11 Second Circuit still held that there needed to be separate  
12 counsel and separate representatives.

13 THE COURT: That case, the facts were much more  
14 extreme than anything here.

15 I'm having a little problem understanding. Here, we  
16 have counsel that, yes, they are co-class counsel, but two of  
17 them represent exclusively people -- representatives of their  
18 individual clients, as to whom they also have a fiduciary  
19 duty -- exclusive domestic shareholders who, if there was  
20 anything of what you're raising, would presumably be screaming  
21 bloody murder.

22 Moreover, while the 90 percent estimate may or may not  
23 be totally accurate, it was to avoid the very complicated fact  
24 finding that would have to be done after the claims have been  
25 submitted that would have been itself a very large expense that

I649petc

1 counsel said: Well, our sense of it is, it's about 90 percent,  
2 leaving only 2 percent. And rather than go through that huge  
3 expense, we think it's in the interests of the domestic  
4 category in order to get the global peace that defense counsel  
5 quite reasonably are demanding to make this cut that we have  
6 done of treating everyone alike.

7 Why aren't those -- I don't understand how that rises,  
8 in that context, to the kind of conflict that was presented or  
9 anything like the kind of conflict that was presented in the  
10 Literary Works case.

11 MS. ST. JOHN: Taking the latter scenario first, the  
12 administrative feasibility, that may have been the conclusion  
13 reached had there been separate counsel representing these two  
14 different subgroups. Maybe they would have reached that  
15 conclusion. We don't know because there wasn't an arm's length  
16 negotiation with respect to the different interests of the  
17 defendants, the domestic purchasers, and the foreign purchasers  
18 to try to work out what does a fair settlement look like. And,  
19 instead, we had counsel who was conflicted because they wanted  
20 global peace as well. They wanted to end a litigation. There  
21 wasn't anyone specifically devoted to the domestic transaction  
22 class members to make sure that they got their fair share from  
23 the settlement.

24 THE COURT: What was the total loss that your client  
25 suffered?



I649petc

1 MS. ST. JOHN: For the particular account that he  
2 submitted the objection for, the total amount that he recovers  
3 I believe is about \$66. The total loss is far more than that.  
4 There was additional money he could have recovered had the  
5 settlement been larger.

6 THE COURT: I'm just talking -- I'm talking in total  
7 monetary terms what was it, number one, that your client, the  
8 actual shareholders, not the entity that is also involved in  
9 your representation, but the actual shareholders. How much  
10 money did they lose? How much money are they recovering under  
11 this settlement? And how much more money do you have any basis  
12 for saying they would have been able to recover on any scenario  
13 if there had been the separate representation?

14 MS. ST. JOHN: I'm sorry, your Honor, I don't have  
15 information about his other accounts so I can't make a  
16 representation about the total loss. He had about 55 shares at  
17 issue. And the trust that's objecting today, the total  
18 recovery is about \$66. I don't have additional information.  
19 I'm sorry.

20 THE COURT: \$66 total?

21 MS. ST. JOHN: Yes, your Honor.

22 THE COURT: So let's assume -- all right. So there is  
23 an aspect of this that is de minimis in terms of your  
24 particular client.

25 MS. ST. JOHN: Perhaps. But in a \$3 billion

I649petc

1 settlement it's not de minimis for domestic purchasers.

2 THE COURT: Well I understand that but I think it's  
3 not irrelevant given that very, very few objections -- there  
4 were a grand total, of all of six objections filed, two of whom  
5 are represented here today. I've considered, of course, all  
6 six.

7 OK. Anything any counsel wanted to say in response to  
8 the arguments just raised by objector's counsel.

9 MR. DUBBS: Thomas Dubbs for Hawaii, your Honor. Just  
10 so the record is clear, Hawaii supports the settlement for all  
11 the reasons that were stated. Hawaii's transactions are all,  
12 quote unquote, domestic as per the Court's prior order. And  
13 the fact that Hawaii was not, to borrow a phrase from a  
14 Washington lawyer, "a potted plant," is evidenced by the fact  
15 that we rejected USS's proposal with respect to how much the  
16 Section 11 claimants were going to get and vigorously argued  
17 for and eventually obtained a substantial premium for that. So  
18 that, we would submit, shows that certainly Hawaii, as well as  
19 North Carolina, reviewed this situation and are satisfied with  
20 the result. Thank you.

21 THE COURT: All right. Anything else?

22 MR. LIEBERMAN: Your Honor, just on that point, very  
23 briefly, is that if we would accept Ms. St. John's analysis to  
24 how this should proceed, we are -- we would potentially have  
25 dozens of questions on each claim as to whether or not they met

I649petc

1 the domesticity test and ultimately appeals on those issues  
2 because whether or not you -- one of the six issues that were  
3 raised by Absolute Activist is enough, there is simply no  
4 unanimity amongst the courts on that point. So we could have  
5 people saying well you're hurting the shareholders because you  
6 said that binding the United States is enough; we say it's not  
7 enough. You say broke dealers are enough; we say it's not  
8 enough. You're diluting the people who didn't purchase through  
9 a broker dealer, who purchased while in the United States, and  
10 this could be an endless litigation for years to come, your  
11 Honor.

12 THE COURT: OK. Let's move on.

13 One of the objectors -- not one who is represented  
14 here but one who submitted written objections argues that class  
15 counsel should disclose how much is going to be paid, worst  
16 case, to the claims administrator, acknowledging that that  
17 can't be determined in absolute terms right now but a cap can  
18 be determined and objects if that payout exceeds one percent of  
19 the settlement fund or \$30 million.

20 Now, my recollection -- but this may have not -- this  
21 may have been in a telephone conversation with counsel on some  
22 of the logistical issues rather than something on the record,  
23 but my recollection is the claims administrator's estimate was  
24 about 18 million or well below the 30 million.

25 Is there anyone here from the claims administration?

I649petc

1           Why don't you come forward.

2           MS. BENNUN: Your Honor, with respect to the  
3 previous --

4           THE COURT: I'm sorry?

5           MS. BENNUN: With respect to the --

6           THE COURT: I can't hear you.

7           MS. BENNUN: Your Honor, with respect to the previous  
8 objection, I would like to make comment. Although we are  
9 objectors representing ourselves. My name is --

10          THE COURT: No, no, no. This was not an objection you  
11 had raised.

12          MS. BENNUN: Right. I know.

13          THE COURT: Then I'm not going to hear it now.

14          I will hear, any objection that you raised in writing,  
15 I'm delighted to hear now orally.

16          MS. BENNUN: I see. I thought that -- in my objection  
17 I wrote a reservation of right to --

18          THE COURT: I always am amused when people reserve  
19 their rights.

20          MS. BENNUN: I didn't know.

21          THE COURT: You know what, I'll tell you what. Where  
22 are you from?

23          MS. BENNUN: I'm from -- I live in New York, but I'm  
24 originally from Argentina.

25          THE COURT: Are you a lawyer?

I649petc

1 MS. BENNUN: No. I'm not a lawyer.

2 THE COURT: So --

3 THE WITNESS: I'm representing myself.

4 THE COURT: If you're not a lawyer, I'm going to give  
5 you a little slack. So, go ahead. What is it you wanted to  
6 say?

7 MS. BENNUN: My name is Sandra Bennun.

8 I want to make a comment on that objection because I'm  
9 a New York resident. I have been here 20 years. Me and my  
10 husband we bought many stocks for our retirement as well as for  
11 our investment with our savings and it's more like 50 percent  
12 of our savings and our retirement that we invest in Petrobras  
13 and we have those frozen for already five years and they're  
14 still frozen and we couldn't even pay out a downpayment of a  
15 house because we lost. When we wrote those objections, I got  
16 the letters very clear stating that this is for only ADR --  
17 it's both in the United States. But since I hear the objection  
18 from the other person, I thought that -- I also bought  
19 investments in Argentina for my dad and for myself. And it's a  
20 lot of money that we invest and we also are in the same  
21 situation. So I kind of got confused when you were talking  
22 about domestic and not domestic, probably doesn't -- is not  
23 like related, but I would compare about that because I never  
24 make any claims because I thought that as a foreign we don't  
25 have any rights and we just don't have -- there was nothing.

I649petc

1 So the only thing I object and it was for this that we both  
2 here in the United States.

3 THE COURT: Thank you for bringing that to my  
4 attention.

5 MS. BENNUN: OK. Thanks.

6 THE COURT: Now let's go back to the claims  
7 administrator.

8 MS. MENDOZA: Good afternoon, your Honor.

9 Niki Mendoza and Ed Barrero.

10 THE COURT: So, worst case, how much do you think the  
11 expenses of the claims administrator would be?

12 MS. MENDOZA: Your Honor, in this administration we  
13 have an agreement that has a cap at different levels, depending  
14 on volumes of notices and claims. And right now we're at the  
15 cap level that's 14 million for fees and expenses. There's  
16 another level above that which would be 19 million.

17 THE COURT: OK. So no way can it be anything like 30  
18 million?

19 MS. MENDOZA: Correct.

20 THE COURT: OK. Very good. That's what I wanted to  
21 make sure.

22 There were a number of objections related to the  
23 so-called cy pres recipient. I'm unclear why any money should  
24 go to any cy pres recipient. There's money leftover. I'm not  
25 sure why there should be money leftover. But if there is money

I649petc

1 leftover, why shouldn't it go back to the company?

2 MR. LIEBERMAN: Your Honor, there will always be a  
3 small amount of money that is left that is uneconomical to  
4 distribute. The company typically -- in typical agreements, we  
5 don't want to have the company continue to have an interest in  
6 the administration. Actually, they disavowed the interest in  
7 the administration of the claim. And we don't want them to be  
8 involved in that as well.

9 THE COURT: OK. That's the usual way it comes up. I  
10 have had cases like that. But I don't understand if there's a  
11 little money leftover why shouldn't it go back to the company?

12 MR. LIEBERMAN: Because, your Honor, I think it will  
13 invite Petrobras into our claims administration process and  
14 potentially arguing with us as to what is administratively  
15 feasible to distribute or not. At a certain point we make the  
16 determination --

17 THE COURT: I think the determination has to be,  
18 forgive me, not made by them, and not made by you, but by the  
19 Court.

20 MR. LIEBERMAN: We would make the determination and  
21 present it to the Court.

22 THE COURT: So it's a little more work for me, doesn't  
23 change my hourly rate.

24 MR. LIEBERMAN: Your Honor, I'm not sure that the  
25 Petrobras should be rewarded with respect to any monies backing

I649petc

1 this action.

2 THE COURT: No, no, no. The question is this.  
3 There's going to be -- and I think you're right. There  
4 typically is, in these end kind of things, a small amount,  
5 usually it's quite small, but a small amount of money leftover,  
6 and leftover because it would be administratively more  
7 expensive to distribute it further than to just treat it as a  
8 lump sum and to give it to someone. So you have the so-called  
9 cy pres doctrine which in the bad old days not that long ago  
10 some judges gave to their alma maters and things like that.

11 So the Second Circuit then says it should, if you're  
12 going to have it, it should go to some entity that will fulfill  
13 what the general purposes of the litigation from the  
14 plaintiffs' point of view was. So, like if it was a consumer  
15 class action you might give it to Consumers Union or something  
16 like that.

17 Here, you have a whole little provision to give it to  
18 a Brazilian good government entity that you would choose and  
19 then -- or they would choose and you would approve afterwards  
20 and then I suppose I'd have to, presumably, would have to get  
21 into it, and that's going to be really hard trying to figure  
22 out the bona fides of some foreign entity. But since we're  
23 talking about such a small amount, I don't see why it shouldn't  
24 just go back to the company.

25 MR. LIEBERMAN: From our perspective, from class



I649petc

1 plaintiffs' perspective, having -- it is unwise to have  
2 Petrobras involved. It would invite them into the claims  
3 administration process. They become vested --

4 THE COURT: I'm not inviting them into the claims  
5 administration process, although I'm not sure they are  
6 precluded from that in any event. They're a party to this  
7 lawsuit.

8 But what we're talking about is to whom -- let's  
9 assume everything goes the way you anticipate it goes, none of  
10 the evil counsel for the defendants involved in mucking up the  
11 claims administration process, and then we wind up with, I'll  
12 hypothesize, \$3 million left. Why shouldn't that go back to  
13 the company?

14 At that point, by your own analysis, it's not worth  
15 while to distribute that further. And I suspect it may be a  
16 lot less than \$3 million, but whatever it is. It can't go to  
17 you, and it can't go to the Court, and it can't go to my own  
18 preferred charity, the New York Yankees, and so why shouldn't  
19 it just go back to the company?

20 MR. LIEBERMAN: Your Honor, worst things could happen  
21 than money going back to the company. We would still suggest  
22 that the better view is that Petrobras, and the better view in  
23 all these cases, defendant cuts the check that is administrated  
24 to the best of everyone's ability. Usually it's a very small  
25 amount, \$30,000 or so, some tiny amount. And the better view

I649petc

1 is, the more enlightened view, we think, is Petrobras should  
2 have no interest in that administration. They disavowed that  
3 in the stipulation. They disavowed taking a position on the  
4 administration plan of allocation, and they should really have,  
5 in a sense, kissed that money good-bye. And we think that is a  
6 better way.

7 THE COURT: Let me hear if anyone else wants to be  
8 heard on this issue.

9 MS. ST. JOHN: Thank you, your Honor.

10 From our perspective this is money that belongs to the  
11 class. It's damages for their --

12 THE COURT: The hypothesis -- this only arises when  
13 you get down -- 30,000 is much closer to the reality than 3  
14 million -- you get down to an amount that literally, just  
15 ascertaining how to send -- or even sometimes the postage costs  
16 of sending it to thousands of shareholders exceeds the amount  
17 that's left. So if you had \$30,000 leftover that it would cost  
18 \$40,000 to mail out checks for, doesn't make any sense. So  
19 that's where you get the cy pres.

20 MS. ST. JOHN: I understand, your Honor. And we  
21 suggest sending it to SEC Fair Funds for Investors. It's a  
22 fund that helps shareholders, helps prevent shareholder fraud  
23 type actions, and we believe that's a better recipient of class  
24 members' damages money than the party that harmed them and  
25 caused this lawsuit to begin with.

I649petc

1 THE COURT: So well, of course, it's always the SEC --  
2 as near as I can tell, this is an arm of the SEC you're  
3 recommending?

4 MS. ST. JOHN: I believe it's run by them, yes, your  
5 Honor.

6 THE COURT: It's their fair funds kind of thing. We  
7 don't want to deprive them of what they tell Congress every  
8 year which is that they're seriously underfunded.

9 But, more seriously, the Second Circuit says, as I  
10 indicated previously, that it should go to an organization that  
11 fairly represents what the lawsuit was about from the  
12 plaintiffs' point of view. And the SEC Fair Funds sounds like  
13 a much more general kind of thing than the Second Circuit might  
14 have in mind.

15 Have you looked at the Second Circuit precedent?

16 MS. ST. JOHN: Yes, your Honor. The next best  
17 standard. And I still submit that the SEC Fair Funds is a  
18 closer fit to helping prevent shareholder fraud than giving it  
19 back to the party that committed shareholder fraud to begin  
20 with.

21 THE COURT: OK. Let me find out actually what about  
22 that? Any objections to that from the plaintiff's counsel?

23 MR. LIEBERMAN: Your Honor, on behalf of class  
24 plaintiffs, the recipient in our view is immaterial, and it  
25 should not be Petrobras. We do agree with that. And so

I649petc

1 ultimately if the Court says it should be Fair Funds, we're  
2 fine with that. It should go to a good cause.

3 THE COURT: I take it, my question is: Do you have  
4 any objection if the Court were to send it to the SEC Fair  
5 Funds?

6 MR. LIEBERMAN: No, as long as they use it well, your  
7 Honor.

8 THE COURT: How about defense counsel?

9 MR. LINMAN: Your Honor, it's not been briefed and,  
10 therefore, I'm not sure it's actually administratively  
11 feasible. What I understand the Fair Funds procedures, that  
12 they are set up on a case-specific basis and I believe -- but  
13 I'm not sure of this, if the Court is thinking about this, I  
14 think it might need briefing. I think that the SEC will not  
15 take essentially general contributions.

16 THE COURT: So that's -- let me go back -- because  
17 usually the way the Fair Funds works is in a situation where  
18 the SEC itself obtains money as part of an SEC settlement and  
19 then, thanks to changes in the law that occurred some years  
20 ago, they are now able to send it off, that money, rather than  
21 keeping it in the SEC's coffers, send it off to the victims of  
22 whatever particular fraud was involved; whereas, yours sounds  
23 like more for administrative expenses or something like that.  
24 I'm not quite sure whether the SEC can accept what you're  
25 recommending.

I649petc

1 MS. ST. JOHN: That's something we'd be happy to look  
2 into further and participate in briefing on, your Honor, or  
3 find a separate organization that, likewise, addresses  
4 shareholder fraughted rather than --

5 THE COURT: I'll tell you what. At this point we  
6 don't know what's going to be left, it would not make sense, I  
7 don't think, to have briefing. Let's say there's \$2,000 left.  
8 It would not -- from no one's standpoint except lawyers would  
9 it be useful to have briefing at that point. So let's see  
10 what's left and I'll keep in your mind your request and hear it  
11 again at that point.

12 MS. ST. JOHN: Thank you, your Honor.

13 THE COURT: All right.

14 Now, there was a question again raised by the Haynes  
15 objectors that under relevant precedent the attorneys' fees of  
16 attorneys who are not licensed to practice law in the United  
17 States should be treated as an expense rather than as part of  
18 the attorneys' fees. I'm not sure it means that much in the  
19 end but let me see whether plaintiffs' counsel wants to say  
20 anything about that.

21 MR. LIEBERMAN: Sure, your Honor. I think, again, I  
22 think the view is, Judge Easterbrook's view is the best one, is  
23 that we should go in the private marketplace. And when Cleary  
24 Gottlieb or Skadden or others hire attorneys who may not be --  
25 may be licensed in different countries to assist on a relevant

I649petc

1 case, how do they bill out those attorneys? I'm quite sure  
2 that they don't bill them out -- they don't expense then. I'm  
3 quite sure that they actually bill their time.

4 In the ModSpace bankruptcy proceeding, which we have  
5 on the record, as well as the Alpha National Resources case,  
6 there are entries by Cleary Gottlieb for international lawyers.  
7 We would understand that to be lawyers who are not admitted in  
8 the United States but yet are admitted in another country and  
9 their work is relevant to the work and subject matter at hand.  
10 So we're quite sure that if you go into the private marketplace  
11 and then see how the great firms, Skadden and Cleary and  
12 others, do assess the time that it is actually billed and it's  
13 not expensed.

14 Very significantly here, your Honor, the Petrobras  
15 admitted attorneys, whether or not they were admitted in  
16 Portuguese, the -- the work that they had done was significant  
17 to the work we were doing to understanding what was going on in  
18 Brazil vis-a-vis the proceedings there, vis-a-vis how to get  
19 documents from there, vis-a-vis helping us to authenticate  
20 documents. So we didn't need them to help us for work in the  
21 United States. We actually needed them for their help in  
22 Brazil. So I don't see what the value was of U.S. admission in  
23 the United States. Their value was in Brazil. That's why we  
24 needed them. And, once again, that's how everyone bills. It's  
25 not just everyone does it. That's the private marketplace.

I649petc

1 There's good reason for it. We took on their liability. We  
2 took on their health insurance. We took on their benefits.  
3 And for us to just expense those would seem to be not really  
4 appropriate in this instance.

5 THE COURT: Does counsel for the objectors want to say  
6 anything on that?

7 MS. ST. JOHN: Yes, your Honor.

8 Under the case law an attorney must at least be  
9 eligible for U.S. admission before attorneys' fees can be  
10 recovered. Here, it's no different than hiring a consultant to  
11 help in highly complex litigation. These attorneys -- it  
12 doesn't convert the work to legal work. They were doing  
13 investigative type work, translation work. That should have  
14 been billed as a cost just like the other local Brazilian  
15 attorney and translation cost that class counsel did bill as a  
16 cost. I don't see where in the record they're getting  
17 information about what Cleary Gottlieb did in some other case  
18 where we don't know whether those attorneys were eligible for  
19 U.S. admission. Regardless of the value added by these  
20 attorneys and their experience, they still needed to be  
21 admitted to the U.S. before they could be eligible for fees.  
22 This is a litigation of U.S. claims in U.S. court and the class  
23 should not be billed up to 20 times the cost plus a 1.78  
24 multiplier on top of that.

25 THE COURT: All right. I will think about all of

I649petc

1 that.

2 Now, a different objector raised the argument that the  
3 class representatives are not entitled to have their expenses  
4 reimbursed if they did not provide a breakdown. Now, in fact,  
5 each of the representatives did make submissions in that  
6 regard, some quite detailed, although I don't know that they  
7 provided quite the kind of breakdown that I have for the  
8 attorneys' fees.

9 For example, USS, which seeks reimbursement in the  
10 amount of \$300,000, say that they devoted actually much more  
11 than that, an estimated \$703,590.51 in time spent. But it  
12 wasn't clear to me where that figure was coming from. We did  
13 have the general counsel saying that he personally worked at  
14 least 248 hours on the action and I was delighted to see that  
15 because it was very important to me that USS be hands-on as  
16 they had been. But I wondered whether -- how did you come up  
17 with that estimate?

18 MR. HILL: Yes. So, your Honor, we did a fair amount  
19 of work back in London. There were four employees who account  
20 for most of the time at USS: Myself; my legal colleague, Jaime  
21 Perez, who is here today; Chris Shale, who is the lead  
22 portfolio manager in Petrobras; and Dr. Diamond Summerfield who  
23 works in our public affairs and governance department. In  
24 addition, a number of our operational staff spent hours  
25 collecting documentation, checking out trading records and so



I649petc

1 on. That's how we related the number of hours. It was a  
2 fairly conservative number. We only went with the number of  
3 hours we could justify by looking back at calendar records and  
4 so on. We don't keep detailed time records.

5 THE COURT: So it's my -- I mean that's really the  
6 heart of it. Unlike lawyers you don't record daily billable  
7 hours in the way that a lawyer does, true?

8 MR. HILL: True.

9 THE COURT: Well lucky you.

10 MR. HILL: But we were very cognizant of that, your  
11 Honor. Therefore, the numbers we present to the Court are  
12 conservative. We're confident of that.

13 THE COURT: The next thing I wanted to raise concerns  
14 Bernstein Litowitz's claim for fees. Is anyone here from  
15 Bernstein?

16 MR. DUBBS: Excuse me, your Honor. Thomas Dubbs from  
17 Hawaii. May I be heard on that last point just for the record?

18 THE COURT: Sure.

19 MR. DUBBS: The Hawaii's claim for out-of-pocket fees  
20 and expenses is detailed in some regard in Exhibit 14 to  
21 Mr. Lieberman affidavit and it includes person by person time,  
22 and the Hawaii in-house people do keep time like private  
23 practice attorneys do, and they have specific fees. And I  
24 think it's outlined in sufficient detail.

25 THE COURT: I did notice that but thank you very much

I649petc

1 for noting that on the record.

2 Is someone here from Bernstein Litowitz?

3 MR. GALDSTON: Yes, your Honor.

4 THE COURT: Do you want to come up to the microphone,  
5 please. And identify yourself for the record.

6 MR. GALDSTON: Good afternoon. Benjamin Galdston of  
7 Bernstein Litowitz and I'm joined by my colleague, my partner,  
8 Salvatore Graziano.

9 THE COURT: Now maybe there's something else, and  
10 there's so much volume of paper here maybe I missed it, but I  
11 think all I got from you with regard to your expenses was an  
12 overall summary which was Exhibit 28 to one of the submissions.  
13 And it shows very large numbers for what was not lead counsel:  
14 External ESI vendors, 616,000 plus; loss causation damages  
15 expert, 256,000 plus; financial consultant, \$192,000 plus; and  
16 then various other categories, all coming up to a total of  
17 \$1,146,873.73.

18 Even plaintiffs' lead counsel thinks that you  
19 shouldn't get the damages expert payment but I'm wondering --  
20 did I miss? Did you give us a breakdown of specifics for each  
21 of those categories?

22 MR. GALDSTON: Your Honor, the exhibit that we  
23 submitted is the breakdown of our expenses. We did not provide  
24 additional detail on those expenses. We did, however --

25 THE COURT: I don't see in the world why I should give

I649petc

1 you a penny of it.

2 MR. GALDSTON: Let me explain --

3 THE COURT: You must know from the thousands of cases  
4 where you have been lead counsel that a court doesn't do its  
5 job unless it scrutinizes these expenses in detail which your  
6 categories give me no opportunity to do.

7 MR. GALDSTON: Well, your Honor, I'm happy to address  
8 the expenses in detail presently, today, and I'm happy to  
9 submit additional detail if your Honor would like.

10 We did provide counsel for Petrobras, as well as  
11 counsel for the lead plaintiffs, our detailed expense --

12 THE COURT: My recollection is while they've agreed to  
13 pay whatever I approve out of their total attorney fee  
14 allocation, they, if I recall correctly, left it to me to  
15 determine how much the total is going to be. In fact, my  
16 recollection is that's what the law provides. And my  
17 recollection is that you must know that law well. So I am,  
18 frankly, dismayed that all I got from you directly or  
19 indirectly was these very large, unspecified categories.

20 MR. GALDSTON: Your Honor, it's addressed in detail in  
21 our papers. Let me go through them if I may.

22 On the ESI vendors we have incurred expenses in the  
23 amount as detailed in our appendix there of \$616,745.70. That  
24 relates to two ESI vendors that were necessarily retained for  
25 our clients.

I649petc

1 THE COURT: To do what?

2 MR. GALDSTON: To comply with your Honor's schedule.

3 THE COURT: Don't tell to comply. Tell me what they  
4 did.

5 MR. GALDSTON: So these are vendors who collected  
6 enormous quantities of electronically-stored information from  
7 our clients. As you know, we represent large institutional  
8 investors with billions of dollars in assets under management.  
9 They have complicated organizations, with diverse locations.  
10 We had some 53 separate plaintiff entities. The requests that  
11 were served upon us were the same or substantially identical  
12 requests that were served on the class plaintiffs. And in  
13 order to collect responsive documents and process those  
14 documents to determine which documents were relevant and  
15 responsive and should be produced, we had to necessarily incur  
16 these expenses for these two vendors, which I might add, and  
17 this is again detailed in our application, were the vendors  
18 that were required by our clients. Our clients used these  
19 vendors because they have satisfied certain security criteria  
20 and are the vendors that are authorized to go into their files  
21 and to collect data and information.

22 THE COURT: That last point seems to me to be  
23 problematic. Let's say in a hypothetical you had a choice of  
24 two vendors, one of whom charged \$5 an hour and one who charged  
25 \$50 an hour, and the client said: Oh, we're not going to let

I649petc

1 anyone in but the \$50 an hour, then the proper thing would have  
2 been to come to the Court and the Court might have told your  
3 clients they don't have a choice unless they want to eat the  
4 \$45 an hour difference for their own privacy purposes. So I  
5 don't see how they -- their dictation to you of who to use  
6 should be of any weight to me at all.

7 MR. GALDSTON: Well, your Honor, I think the salient  
8 question here is what were we doing at the time that we were  
9 collecting these documents. At that time we represented our  
10 clients as individual litigants who were prosecuting their own  
11 claims and doing everything that they could in order to comply  
12 with the discovery deadlines.

13 THE COURT: And, of course, if they were prosecuting  
14 their own claims they were free to continue to opt out and  
15 pursue their own claims at their own expense. But now they're  
16 asking to have their fees paid.

17 MR. GALDSTON: That's correct, your Honor, because now  
18 they are effectively part of the class. They are the class.  
19 They are, by definition of the settlement class, they are  
20 included. Their damages have been included in the recovery and  
21 it's part of the amount that is predicated upon counsel's  
22 request for a fee. So it would not be equitable for our  
23 clients to now be forced to bear those expenses or for  
24 Bernstein Litowitz to be forced to bear those expenses when  
25 that work had a benefit for the class and advanced the

I649petc

1 settlement.

2 THE COURT: What about your expert who they claim --  
3 plaintiffs' lead counsel says was detrimental to the class.

4 MR. GALDSTON: Your Honor, I respectfully disagree. I  
5 think our expert, Dr. Juneja, is a well known economist who has  
6 been before this and many other courts. You're familiar with  
7 NERA. We retained NERA. And we retain our expert not based on  
8 some outcome-directed approach but because they will apply an  
9 independent analysis of the case as it pertains to our clients'  
10 investments. And the opinion that was rendered by Dr. Juneja  
11 was not adverse or hostile to the opinion of --

12 THE COURT: If the case had gone to trial with you as  
13 having opted out, would you have called him?

14 MR. GALDSTON: If the case had gone to trial and we  
15 had opted out --

16 THE COURT: If you were the plaintiff, in other words,  
17 would you have called him?

18 MR. GALDSTON: Correct. As an individual litigant,  
19 that would have been our expert at trial for our clients -- to  
20 prove our clients' damages.

21 May I just -- your Honor, may I point out that the  
22 misstatements and the corrective curative disclosures that  
23 Dr. Juneja identified, these are consistent with and, in fact,  
24 supportive of those that were identified by the class expert  
25 Blaine Nye. The fact that they're not the same and don't

I649petc

1 encompass all of those same disclosures does not make Dr. -- or  
2 does not render Dr. Juneja's opinion hostile or adverse to the  
3 class experts; in fact, it's supportive.

4 THE COURT: Let me interrupt for a moment and ask  
5 plaintiffs' counsel. So you say this should not be paid  
6 because it was not helpful to the class or words to that  
7 effect.

8 They went out to a well respected organization. They  
9 hired an independent expert. And they got an independent  
10 opinion. What's wrong with that?

11 MR. LIEBERMAN: Your Honor, as we stated in our  
12 papers, we think -- and respect Dr. Juneja and we respect NERA.  
13 There is no doubt that the four competing damages analyses --  
14 three by the individual plaintiffs, one by defendants -- was a  
15 constant thorn in our side throughout the litigation and  
16 throughout the mediation process. Simply, it's unique to the  
17 whole case here that individual plaintiffs would not use our  
18 damages analyst. Once that break occurred, that hurt, quite  
19 frankly, the negotiation positions and it would have  
20 potentially added to a motion to exclude. This Court may have  
21 said: Well, Dr. Nye is obviously out of his mind; he's  
22 alleging threes times the amount that these well experienced  
23 plaintiffs are. So we make very clear we don't think that's a  
24 benefit to the class.

25 THE COURT: So your point, if I understand, is not

I649petc

1 that you challenge his expertise per se. You say it shouldn't  
2 be coming out of the class funds because it didn't advance the  
3 class position, it just advanced their own clients' position at  
4 best.

5 MR. LIEBERMAN: Well I think, more to the point, it  
6 hurt the class throughout the negotiations. There is no doubt  
7 about it, your Honor. That's our strong belief. It was a  
8 major issue.

9 THE COURT: But I'm just not sure I totally follow.

10 So, supposing in their legal fees they spent, my  
11 hypothetical, a hundred hours arguing to you that their client  
12 should get more than the rest of the class -- this probably  
13 didn't happen, I'm just doing it as a hypothetical -- you would  
14 say then that they're not entitled to have those legal fees  
15 paid out of the total legal fees?

16 MR. LIEBERMAN: Your Honor, that would probably be our  
17 position. We took the position we took with respect to legal  
18 fees was: Listen, we see this lodestar of \$2 million. We  
19 don't want to get into an audit situation here with Bernstein  
20 Litowitz. We would have questions. They wanted the lodestar  
21 to be acknowledged. And we said: Listen, it could be  
22 acknowledged. At the end of the day -- there is benefit, there  
23 is benefit to -- they did do some work at the direction of  
24 class counsel. We didn't want to get into the weeds as to what  
25 was at our direction, what was not.



I649petc

1 THE COURT: Why should I be paying -- or, in effect,  
2 you be paying but I it will be from a total amount that I will  
3 set -- for stuff that wasn't done at your direction?

4 MR. LIEBERMAN: As we said in our papers, we would  
5 apply a significant discount to that \$2 million because it was  
6 not at our direction. We're not going to be paying, your  
7 Honor, \$2 million. It's pretty clear.

8 THE COURT: Let me go back to counsel for Bernstein  
9 Litowitz.

10 So they say they're not challenging that you had a  
11 nice independent expert. They said it wasn't of any benefit to  
12 the class. And this is class money that's now being, in  
13 effect, taken from a class and given to the lawyers. What  
14 about that?

15 MR. GALDSTON: Your Honor, I disagree. Our clients  
16 are now the class. The scenario that I think was --

17 THE COURT: You mean they are members of the class.

18 MR. GALDSTON: They are members of the class. And the  
19 class was defined --

20 THE COURT: My recollection is there are some other  
21 members.

22 MR. GALDSTON: Correct.

23 But Mr. Lieberman posed a hypothetical. We're not in  
24 that hypothetical. We're now in the very unusual circumstance  
25 where the settlement class has been defined to include my

I649petc

1 clients. This was a material term to the settlement.  
2 Petrobras defendants have made that clear. The amount of the  
3 settlement and the release that is given would not have been  
4 provided had the settlement class not been defined to include  
5 my clients as well as any other individual litigant. So we are  
6 effectively now members of the class.

7 What might have happened had the cases gone to trial  
8 is not relevant now at this point. We are here regarding the  
9 settlement that has been reached and the expenses that my  
10 clients incurred in prosecuting their claims, in presenting  
11 their liability case, in refuting the various defenses that the  
12 defendants raised, in providing supportive testimony and  
13 evidence that went to class certification, all of that is  
14 compensable because it contributed to the class overall  
15 recovery, to my clients' recovery.

16 And I want to provide your Honor with one other point  
17 just for context. As you know, the lead plaintiff  
18 Universities -- USS is seeking reimbursement of \$300,000 on its  
19 own behalf for expenses. I represent four plaintiffs here,  
20 four clients. At that rate at \$300,000 you have one hundred --  
21 \$1.2 million in expenses. So it's certainly on par, if not  
22 consistent, with the application that's been made of the  
23 representative class -- the class representative.

24 THE COURT: Perhaps there's a difference between when  
25 we were selecting lead counsel and there were many candidates,

I649petc

1 including your firm, and one of the reasons I selected the lead  
2 plaintiff I did, the primary lead plaintiff, was because I was  
3 impressed with the ability and commitment of USS to be a very  
4 hands-on lead plaintiff as the PSLRA contemplates. I made no  
5 determination about your clients' or whether they were entitled  
6 to one penny or anything else. They come in here after the  
7 fact, having cut a deal, and say: Well, we contributed too.  
8 That may well be, but it wasn't because this Court made any  
9 determination about the ability of your clients to do anything.  
10 So I'm not sure it's the same situation.

11 Let me ask you one last question, though. What's this  
12 financial consultant \$192,000?

13 MR. GRAZIANO: May, I just address -- I'm sorry for  
14 double teaming the Court on this presentation, but I need to  
15 correct something you said.

16 THE COURT: I'm used to it. I have three daughters.

17 MR. GRAZIANO: We have not cut any deal here, your  
18 Honor. What happened was, to our surprise, our clients' claims  
19 were settled as now part of the class, and because there is no  
20 deal we're in this very unfair position where our clients'  
21 actual out-of-pocket expenses potentially may go unreimbursed.  
22 We have the underlying bills. We can submit them to the Court.  
23 We don't normally do that even in our class settlements.

24 THE COURT: You don't? I'm amazed. I'm shocked.

25 MR. GRAZIANO: Well we don't, your Honor.

I649petc

1           THE COURT: Well then you better do it. I will give  
2 you 48 hours to do it.

3           MR. GRAZIANO: We can do it in 24 hours, your Honor.

4           THE COURT: I'll take you up on that offer.

5           MR. GRAZIANO: I don't want there to be any  
6 misimpression that we had a deal with class counsel. We don't.  
7 We are outsiders who are now dragged in and part of this class.  
8 And the choice was to opt out, even though the class settlement  
9 is higher because of our four very large clients being in the  
10 class. And that would have been unfair as well.

11           So what we did was we stayed in the class, and we  
12 sought half of our time in this case, on behalf of our four  
13 clients, our actual out-of-pocket expenses that were paid, and  
14 we have bills for that we can share with the Court within 24  
15 hours. And the point here is, just to eliminate any notion  
16 that there's somehow some improper dealing going on where we  
17 were denied lead counsel and then made a deal after the fact.  
18 We were happy to prosecute our own cases and we were doing that  
19 until one day we woke up and realized our cases were settled.  
20 This is a very unusual situation, your Honor and that is what  
21 led to this application.

22           THE COURT: All right. That's a fair point. Let me  
23 ask what is the story on the financial consultant?

24           MR. GALDSTON: Your Honor, the financial consultant is  
25 an expert, if you will, but who bills at a much cheaper rate,

I649petc

1 that assisted us in the drafting of the complaint, evaluating  
2 the clients' financial interests, and their transactions, their  
3 trading, also assisted us in evaluating the proposed  
4 settlement, and making a determination whether to remain in the  
5 class.

6 THE COURT: So why is that an expense that's a benefit  
7 to the class?

8 MR. GALDSTON: For all of the reasons that are set  
9 forth in our application, because this is an individual who  
10 contributed to the litigation strategy, to the filing of the  
11 individual actions, and to the determination to remain in the  
12 class.

13 THE COURT: OK. Thank you very much.

14 MR. GRAZIANO: Thank you, your Honor.

15 MR. GALDSTON: Thank you, your Honor.

16 THE COURT: Now, the last thing I had and then I'll  
17 open the table for anything that anyone else, including the  
18 objectors, want to raise; is the broad issue I've spent a lot  
19 of time on, whether class counsel's lodestar is reasonable,  
20 whether it should be subject to the multiplier proposed by  
21 class counsel, whether the Court should be bound in any way by  
22 the fee agreement negotiated between class counsel and their  
23 client, etc.

24 I've had extensive submissions on this so I don't know  
25 that I have anything that I need to ask about. And I'm

I649petc

1 grateful also to defense counsel for their submission in this  
2 regard which I know is in some ways an awkward request but one  
3 that I think they perform with great diligence. But I did,  
4 since that is the big, big issue before me, in terms of money,  
5 whether the plaintiffs' counsel or anyone else wanted to say  
6 anything further on that issue.

7 MR. LIEBERMAN: Your Honor, thank you.

8 The few requests -- I think delving into the arguments  
9 and delving into whether or not any lodestar incurred is too  
10 much, too little, etc., we think -- respectfully, we think it's  
11 a fool's errand. If there would be -- to be an objective  
12 measure of our fee requests or the lodestar, the most  
13 subjective would be to look at all defendants, look at the time  
14 they incurred and if our time that we incurred was  
15 significantly higher, then I think there would be a fair  
16 argument that we spent too much. There's always going to be a  
17 question: Are you charging? Are your rates too high? Have  
18 you spent too much time? And all those questions that come up  
19 in every litigation.

20 THE COURT: Well I mean I'm not unsympathetic to the  
21 argument in the abstract that the -- using the lodestar is a  
22 sort of check on the overall request may not be the most  
23 promising way to proceed because if you really look at it in  
24 economic terms any contingent fee lawyer, whether it be in a  
25 huge case like this or just in a simple everyday personal

I649petc

1 injury case, is looking at two things: His or her costs, not  
2 the lodestar, not what the billable rates are, but what he or  
3 she actually has to pay to his or her associates or paralegals  
4 or whatever versus the risk involved which is usually viewed in  
5 a percentage way. So you figure out, well, on any given case,  
6 let's say a personal injury situation, on any given case I'm  
7 going to have to expend at least a hundred thousand dollars.  
8 My chances of winning more than a hundred thousand dollars is  
9 going to happen in one out of three cases and so -- you would  
10 work out a formula in effect based on the risk and reward, none  
11 of which would have to do with lodestar. So the lodestar is  
12 somewhat artificial. Nevertheless, I'm a simple district court  
13 and the Second Circuit has repeatedly told me I've got to look  
14 at it as a check. It's not the defining, ultimate  
15 determination but it's an important check on the reasonableness  
16 or unreasonableness of counsel's fee. So I have to look at it.

17 MR. LIEBERMAN: Fair enough, your Honor. We think  
18 that the broad check is, is the amount of work done in the  
19 case; what was the type of work necessary to accomplish these  
20 fees and accomplish the fantastic result we have in this case.  
21 So the work done here was we went six weeks before trial. We  
22 took 81 depositions. There were 14 experts we needed to report  
23 to. And we did all this in an extraordinarily condensed  
24 schedule. And so that's really --

25 THE COURT: But then you deprive me of all the fun of

I649petc

1 having a trial so what good is that?

2 MR. LIEBERMAN: Fair enough.

3 THE COURT: Anyway, I understand your point. Anything  
4 else that you wanted to add?

5 MR. LIEBERMAN: On this issue I would raise two  
6 points. I think we have to look at -- I think the general duty  
7 of the Court is: Is this a fair deal to the class? Is the  
8 class somehow getting bilked by their lawyers, or are they  
9 getting outsized award that somehow it's unfair to them and  
10 they're getting hurt? And we think there is no way that  
11 argument can be made in this case.

12 THE COURT: I didn't address that here today and I  
13 will, of course, address it in my written opinion which will --  
14 because I'm making no determinations today, I'll have a written  
15 opinion to follow. But I was quite satisfied at the time of  
16 the preliminary hearing and still am that this was quite a good  
17 settlement from the plaintiffs' standpoint. Nothing can take  
18 away from that.

19 MR. LIEBERMAN: So, your Honor, I would just like to  
20 show some figures to the Court. It's, as we state, and nobody  
21 has objected to, there's a \$1.2 billion benefit to the class by  
22 having -- really, by having Pomerantz serve as lead counsel.  
23 Had this been settled at the settlement level of the opt-outs  
24 this would have been about a \$1.78 billion settlement. So we  
25 have sophisticated counsel, some of the best in the world, who



I649petc

1 looked at this case, proceeded with their litigation and had we  
2 applied the amount that they received, it would have been  
3 \$1.78 billion. We created a benefit for 1.2 billion.

4 So the question is: Is the \$285 million that we're  
5 asking for, is that unfair with that \$1.2 billion premium? And  
6 there is no way that that could be argued, your Honor. If we  
7 can make a deal with any -- again, we welcome to court to go  
8 into the private marketplace. If I would go to any  
9 sophisticated institutional investor MDL with hundreds of  
10 plaintiffs and I would go to a sophisticated institutional  
11 investor and say to them: I'm going to make you \$1.2 billion,  
12 more than anybody else who is a litigant in this case. What do  
13 you have to pay me? \$285 million. There would be a line from  
14 Pearl Street to this courtroom to sign up for that deal. That  
15 is the private marketplace working. That is the benefit we  
16 incurred. And that doesn't reflect the fact that to get the  
17 \$1.78 billion threshold our firm was the one who did all the  
18 work in order to get that benefit for all the individual  
19 actions. We were the ones that headed the case.

20 We would say, your Honor, look at the 1.78 billion  
21 achieved as pro bono work. We do that pro bono. And we'll  
22 take the \$1.2 billion and say that's complete, verifiable  
23 objective benefit where Pomerantz did something where nobody  
24 else could have done it. And that's a fact. And of that  
25 benefit, you clearly have a \$900 million remainder to the

I649petc

1 class. That's a 52 percent premium to the individual actions.  
2 That's simply, your Honor, says --

3 THE COURT: I like your thought. I think maybe we  
4 should recognize the important pro bono in this case, and I  
5 think you should not charge any fees but we should have a  
6 plaque.

7 Thank you very much.

8 Anyone else want to be heard on this issue and is  
9 there anything else, more generally, from the objectors that  
10 they want to raise?

11 MR. LIEBERMAN: Your Honor, Mr. Hill did have some  
12 words he's prepared.

13 THE COURT: Yes. We'll hear from him first and we'll  
14 hold the objector for a minute.

15 MR. HILL: Thank you, your Honor.

16 First your Honor on behalf of USS could I express our  
17 appreciation to the Court for the care and diligence in  
18 adjudicating this action and the particular brisk pace which  
19 this case has progressed, despite the 16-month stay, and the  
20 significant recovery we've achieved, from our standpoint in the  
21 U.K. at least, speaks very well of the U.S. judicial system and  
22 provides great confidence in the U.S. securities markets. So,  
23 your Honor, thank you very much for your help on that.

24 As you'll recall, your Honor, USS --

25 THE COURT: Well, I must say I appreciate that. And I

I649petc

1 wish the U.K. the very best in their adventure away from the --

2 MR. HILL: Thank you. We will need it. Thank you  
3 very much.

4 As you recall, your Honor, USS is very selective when  
5 it comes to engaging in securities litigation, whether in the  
6 U.K. or anywhere else. And prior to this case USS had not  
7 acted as lead plaintiff in any U.S. securities class action.  
8 We chose to become involved in this one due to the scale of the  
9 unique character of some of the allegations and the scope of  
10 fraud which had affected Petrobras, as well as the significant  
11 losses which had affected USS, and we did believe that we could  
12 play an important role in achieving a significant recovery for  
13 investors in what appeared to be a case with some significant  
14 public interest. And I must say, again, we are grateful for  
15 the trust and responsibility that you placed in us to pursue  
16 those objectives for the class and also our own members, of  
17 course, back in the U.K.

18 Your Honor we, respectfully, would submit that the  
19 results achieved, with Pomerantz's guidance, of course, in the  
20 settlement brought out the objective. Obviously, the scale of  
21 the settlement itself is being well recorded in the papers.  
22 The premium, which Mr. Lieberman just spoke to so eloquently,  
23 the 65 percent premium to the opt-out achievement I think is a  
24 notable thing as well. And, above all, I think that the  
25 adequacy and extraordinary nature of the result we've achieved

I649petc

1 is evidenced by a number of very sophisticated institutional  
2 investors who had opted out of the action now opting back in.  
3 It's our understanding that both the premium achieved as well  
4 as the discontinuance of those individual actions is  
5 unprecedented.

6 Your Honor, I've already spoken a little bit about the  
7 time and resource that USS has committed over the last three  
8 years in making our contribution to this action. So, again, in  
9 summary, USS personnel have spent at least 850 hours in  
10 overseeing or participating in this litigation. And, again,  
11 the particular activities which form part of that are well  
12 recorded in the papers. But they do include either myself or  
13 Mr. Perez attending all significant hearings, all mediation  
14 sessions. We have reviewed every significant pleading and the  
15 settlement papers. And we've also reviewed class counsel  
16 lodestar and expense reports and have responded to defendants'  
17 interrogatories and document requests, and have produced  
18 hundreds of pages of documents in response to those things.  
19 That, based on the conservative estimate as we discussed, leads  
20 us to ask the Court for an award of compensatory award of  
21 \$300,000 which would represent a significant discount to the  
22 several hundred thousand dollars as a conservative estimate  
23 that we estimate we've spent on litigation.

24 We'd also take this opportunity of endorsing North  
25 Carolina and Hawaii's requests for their respective

I649petc

1 compensatory awards of \$50,000 reach as being fair and  
2 reasonable.

3           In closing, your Honor, just a few quick words from me  
4 on class counsel's fee request of 9.48 percent of the  
5 settlement fund. We do believe that Pomerantz has led this  
6 claim skillfully and diligently. We do believe that they've  
7 added significant value for the class as demonstrated, in  
8 particular, about a 65 percent premium to the opt-out  
9 settlements. As your Honor knows well, that 9.4 -- 9.4  
10 representative fee does reflect the ex-ante retainer agreement  
11 which was entered into between USS and Pomerantz. And, again,  
12 as you recall, your Honor, USS did at its own expense take the  
13 advice from Keith Johnson at Reinhart in respect of that,  
14 Mr. Johnson having much experience of overseeing U.S.  
15 securities class actions. Working with Mr. Johnson at the  
16 time, we did reject Pomerantz's initial fee proposal and agreed  
17 to a lower rate as ultimately agreed upon with class counsel.  
18 And I think throughout the course of the litigation both  
19 Pomerantz and USS believe that the applicable attorneys' fees  
20 in this case would be the amount reflected in that retainer  
21 agreement.

22           We are aware, of course, that a very small number,  
23 six, class members have objected to the settlement. Of these  
24 objectors, we note that not one is an institutional investor  
25 with a significant stake in the litigation. As already noted,

I649petc

1 institutional investors with individual claims are opting back  
2 into the settlement. And we believe that most significant  
3 stakeholders in this action agree this is an excellent result  
4 and would wish distribution thereof to proceed as quickly as  
5 possible.

6 While not being particularly familiar with the U.S.  
7 judicial system, we do find it somewhat troubling that a \$3  
8 billion settlement could be delayed by up to two years or more,  
9 potentially, by individuals and their attorneys who appear to  
10 have a negligible stake in the outcome of their appeals. So,  
11 your Honor, we'd respectfully ask the Court to take whatever  
12 legal remedies are available to it in order to protect class  
13 members from any vexatious and dilatory practices and allow the  
14 benefit to this good recovery to reach aggrieved shareholders  
15 as soon as practical.

16 So, your Honor, with renewed thanks to the Court for  
17 its care and diligence in adjudicating this action, that  
18 concludes my few remarks.

19 THE COURT: Thank you very much.

20 Just with reference to the last point you raised. So,  
21 there are at least three different kinds of objectors that  
22 arise in these situations. One are people, members of the  
23 class, who believe that for one reason or another the  
24 settlement is wrong or this provision or that provision is  
25 wrong or the attorneys' fees is wrong or whatever, and the very

I649petc

1 nature of class actions is such that they must be given every  
2 opportunity to be heard because they are otherwise the silent  
3 members of the class. And that's why the law provides for both  
4 written and oral objections as we have had in this case.

5 So I think it's an -- and I'm sure you aren't  
6 suggesting this, but it's not fair to label all objectors as  
7 having bad motives. I think there are numerous cases where  
8 settlements have been perfected and made better because of the  
9 points raised by legitimate objectors.

10 There are also, and we have one example in this case,  
11 people who are objecting for ideological reasons or  
12 socioeconomic reasons and the Haynes objectors fit that  
13 situation. They have an arrangement where they are supported  
14 by an organization that basically thinks class actions are a  
15 big mistake and that they can achieve at least some modest  
16 modicum of reform by suggesting at least some shortcomings of  
17 class actions in instances where they have standing to do so.  
18 And I don't regard that as improper. It's relevant to know  
19 where they're coming from. But if the objections have  
20 independent weight and force, the fact that they were raised  
21 for, if you will, ideological reasons is I think neither here  
22 nor there.

23 The third group of objectors, the ones to whom you  
24 were really referring to, the so-called professional objectors,  
25 are people who are seeking to extort monies on their own

I649petc

1 private behalf, not because they expect that their objections  
2 will receive any weight at the district court level but because  
3 they can delay the entire process, can delay the doing of  
4 justice, can delay the payment to victims of monies that in  
5 some cases they sorely need and that, in any event, they're  
6 entitled to for months or even years on end.

7 I have expressly retained jurisdiction in this case  
8 over the objectors even after I issue my final rulings on the  
9 matters before me today if I am convinced that some discovery  
10 is needed because of extortionate motivations on the part of  
11 any of those objectors. But I want to be clear that I don't  
12 start with that presumption. There are many perfectly  
13 straightforward, well intentioned objectors. There are many  
14 objectors who, even if their motives are ideological, they're  
15 not improper, they're not extortionate. They are trying to  
16 bring to the Court's attention real issues. So we'll see how  
17 that all sorts out with reference to the six objectors here.  
18 But thank you for your comments.

19 MR. HILL: Thank you, your Honor.

20 THE COURT: That door that just opened is to the  
21 federal jail and I will not make any presumptions about whether  
22 any of the objectors deserve to go through that door.

23 All right. Let me hear from objectors' counsel.

24 MS. ST. JOHN: With that prefatory comment, I just  
25 have a few points to address issues that class counsel raised



I649petc

1 in our reply. You have our brief. I won't repeat our points  
2 now.

3 First, it's not a coincidence -- I don't think it's a  
4 coincidence that our corrected lodestar is 50.7 million and  
5 class counsel's lodestar from what they call a core team is 49  
6 million. So I think that there's some overlap here in terms of  
7 what we're saying and what's borne out by the records.

8 I also want to point out that in a settlement of this  
9 size the percentage itself can be a bit arbitrary. There is,  
10 as Goldberger emphasizes, there can be a big difference between  
11 five and six percent. Here we're talking millions of dollars  
12 for the class. And so that's why the lodestar becomes an  
13 important crosscheck. And in order to be a crosscheck, it  
14 needs to be accurate. It might not be the same line-by-line  
15 analysis that you would undertake when it's used as a base  
16 method but it still needs to be accurate in order to ensure  
17 that the percentage selected is appropriate.

18 Here, class counsel doesn't dispute that much of the  
19 work done by US project attorneys was, in fact, document  
20 reviews, translation, even file management and organization.  
21 They didn't respond to our case law showing that these -- this  
22 type of work should be billed to the class as a cost, not as  
23 fees. If they were paying additional benefits to the  
24 attorneys, maybe you increase the rate above the \$15 per hour  
25 that you often see in the market, but you don't get into the

I649petc

1 multi-hundred dollar rates that they're seeking here.

2 Class counsel says they should be able to bill the  
3 same hourly rate as the defendants. We don't necessarily  
4 disagree, but there's nothing in the record showing that any of  
5 the defense firms here billed first level document review any  
6 kind of coding or translation at the excessive rates that class  
7 counsel is charging the class.

8 Once the overall lodestar is reduced, then the fee  
9 should be reduced as well. It doesn't make sense to say well  
10 we'll just increase the multiplier once the lodestar is  
11 decreased. In that situation there is no incentive for class  
12 counsel not to include excessive billings or other abusive  
13 practices if, either way, they end up with the same fee award.

14 For all the reasons in our brief we're asking for a  
15 hundred million dollar -- 190 million fee reduction and for  
16 that amount to be returned to the class.

17 THE COURT: Thank you very much. And I don't want  
18 anyone to assume that I have either approved or disapproved any  
19 of the competing lodestar calculations that have been presented  
20 to me. There are a lot of I think significant questions that  
21 were raised about the work in this case, whether -- and what  
22 would be an appropriate charge, and I will address all of that  
23 in my written opinion, but I want to be clear I'm not making  
24 any kind of rulings today in that regard.

25 So thank you very much. And let me hear from the

I649petc

1 other objector.

2 MR. MARTINEZ: Let me address a few points.  
3 Especially I want to tap into what the counsel said about the  
4 one billion and you know three hundred million dollars. You  
5 know that is share property that come from people and I think  
6 is quite different to all the plaintiffs for the class action.  
7 So I don't think that should be considered at all, your Honor.

8 Regarding the nine point some number percent, 287  
9 million. You know, how many people is going to get that? Two  
10 hundred? You know, the plaintiffs how many are in the class,  
11 thousand? Let me give you some numbers. We, domestic, we  
12 lost, with my wife, \$47,000. Probably we get ten thousand  
13 dollars the way it is now presented. You know we are going to  
14 be saying, OK. Regarding the nondomestic, which my wife has a  
15 similar amount of money. You know, that is not even spoken in  
16 this court today, which, you know, that is problematic to us,  
17 to all the class members. I can give you another example, you  
18 know, because we are talking about numbers, so let me give you  
19 numbers. Your Honor, BP, British Petroleum, the big oil spill  
20 a couple years ago. That was another multibillion dollar  
21 class. And you know the total attorney fees, you know,  
22 expenses and so forth, it was a 4.2 percent. Now we're talking  
23 twice as much. Now we have pretty much this handful of money,  
24 so let's get it to us per se. That is what is happened today.  
25 You know we are, honestly, very unhappy about that. Let me

I649petc

1 give you another example. You know, they've been talking about  
2 risk and so on and so forth. You know I'm a volunteer  
3 firefighter. I've been in millions and millions of costs,  
4 thousands of costs, sorry. I charge still two or three. I'm a  
5 document chemical engineer. I have my own money. So if they  
6 don't know how to balance their risk, probably they should  
7 reconsider what they're doing.

8 Another problem I want to bring about these persons  
9 that the shares are brought out, that they are done in the U.S.  
10 I got my Ph.D. here in the U.S. If I go to my home country in  
11 Argentina, I use the same degree, they will tell me: Sorry,  
12 you have to take all the requirements or evaluations to charge  
13 us a penny. So I don't think those costs or expenses are valid  
14 at all, your Honor. So you know I think the lodestar formula  
15 that the problems -- it should be pretty much not valid. Thank  
16 you for your time.

17 THE COURT: Thank you very much.

18 All right. Is there anyone else who wants to be  
19 heard?

20 OK. I will take this matter sub judice.

21 MR. LIEBERMAN: Your Honor, just to sum it all up in  
22 closing, very briefly. First, the issue on the objectors does  
23 weigh heavily with respect to our minds and class plaintiffs as  
24 to the potential that we do have a scenario where either \$66 or  
25 a \$500 loss could hold up this distribution by potentially two

I649petc

1 years. So we just want to raise that. We will take whatever  
2 measures we think we can to make sure that does not occur but  
3 we think it is -- it does provide a certain inequity that would  
4 need to be addressed. That's one point.

5 The other point is just to, we'd like to take this  
6 opportunity to thank the Court for its time, effort, and  
7 diligence on this case. And, really, to thank the entire team  
8 here. It was not only one person litigating this case. There  
9 were a core team of attorneys here who are sitting here in this  
10 courtroom who really did a fantastic job in working on this  
11 case and making the excellent result that occurred.

12 We do want to think also defense counsel both Cleary,  
13 Skadden, King & Spalding, and others. We think this was  
14 really -- ultimately turned out to be an excellent result for  
15 everybody. And so really it's been a privilege of a lifetime  
16 to serve as lead counsel in this Court. And it's been an honor  
17 and, most of all, it's been fun. So we really appreciate the  
18 Court's time.

19 THE COURT: It's still more fun to go to a Yankees  
20 game.

21 OK. Much appreciated. This matter is adjourned.  
22 Thanks very much.

23 (Adjourned)  
24  
25